State of Wisconsin
2001 – 2002 LEGISLATURE

LRB–4725/P2
ALL:all:all

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

Underlying analysis document to Budget Adj. Bill.

AN ACT ...; **relating to:**

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

***** ANALYSIS FROM –4540/1 *****

AGRICULTURE

Current law authorizes DATCP to grant $240,000 in each fiscal year to Dane County to assist in paying the costs of operating an exposition center and of hosting the World Dairy Expo at the exposition center. This bill eliminates the authority and the funding for those grants.

***** ANALYSIS FROM –4549/3 *****

COMMERCE AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT

This bill requires the department of commerce to establish and operate a grants management office (office) and increases the authorized positions for the department of commerce by one for staffing the office. The responsibilities of the office include identifying public and private sources of grants, acting as a clearinghouse for those sources of grants, and offering to governmental agencies, nonprofit organizations, school boards, operators of charter schools, and governing bodies of private schools training and assistance in pursuing grants.

*** ANALYSIS FROM –4498/1 ***
COMMERCE AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT

Under the business development initiative program in current law, the department of commerce provides technical assistance, or a grant for technical assistance, to individuals, small businesses, and nonprofit organizations for developing and planning the start–up or expansion of a business that is expected to provide job opportunities for persons with severe disabilities. This bill eliminates the business development initiative program.

*** ANALYSIS FROM –4542/2 ***
COMMERCE AND ECONOMIC DEVELOPMENT

COMMERCE

Uniform Electronic Transactions Act

This bill enacts a version of the Uniform Electronic Transactions Act (UETA), which was approved and recommended for enactment by the National Conference of Commissioners on Uniform State Laws in 1999. Currently, a combination of state and federal laws govern the use of electronic documents and signatures in this state. The most significant federal law in this regard is the Electronic Signatures in Global and National Commerce Act, commonly known as "E–sign." Although E–sign contains provisions that potentially affect the maintenance and destruction of public records and the acceptance of electronic documents by governmental units, E–sign primarily affects the use of electronic documents and signatures in consumer and business transactions.

E–sign generally preempts inconsistent state laws. However, with possible limited exceptions, E–sign does not preempt a state law that constitutes an enactment of the recommended version of UETA. Because this bill makes certain substantive changes to UETA and in some cases it is not clear whether the text is consistent with the intent of the version of UETA recommended for enactment in all of the states, it is difficult to determine whether the bill qualifies for an exception from preemption and, if enacted, the legal effect which the bill would have.

Like E–sign, the bill primarily affects the use of electronic documents and electronic signatures in transactions. Under the bill's broad definitions, such things as information stored on a computer disk or a voice mail recording would likely qualify for use as an electronic document. However, like E–sign, this bill does not apply to the execution of wills, to testamentary trusts, or to a transaction governed by any chapter of this state's version of the Uniform Commercial Code other than the chapter dealing with sales of goods. Unlike current law under E–sign, the bill also specifically exempts deeds and cancellation notices for local telecommunications services. With the exception of the provisions relating to wills, trusts, and the UCC, these exceptions are not included in the version of UETA recommended for enactment in all the states.

Like E–sign, this bill specifies that a document or signature may not be denied legal effect or enforceability solely because it is in electronic form. Unlike E–sign, this bill further states that an electronic document satisfies any law requiring a

document to be in writing and that an electronic signature satisfies any law requiring a signature. The bill does not require the use of electronic documents or electronic signatures. Rather, the bill applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. However, unlike current law under E–sign, this bill does not contain any protections that specifically apply only to consumer transactions. The consumer protections currently in effect under E–sign would arguably have no effect in this state upon the enactment of this bill.

Under this bill, a person may use an electronic document in a transaction to satisfy any law requiring the person to provide, send, or deliver information in writing to another person, if the electronic document satisfies certain conditions. Although the bill also states that a document relating to a transaction may not be denied legal effect solely because it is in electronic form, the bill likely permits a person to deny the legal effect of an electronic document that does not satisfy these conditions. The bill also specifies that, with certain exceptions, a document must satisfy any law requiring the document to be posted or displayed in a certain manner; to be sent, communicated, or transmitted by a specified method; or to contain information that is formatted in a certain manner. Although this provision is subject to varying interpretations, it likely requires the parties to a transaction to comply with any legal requirement relating to the provision of information *other than a requirement that the information be provided on paper.*

The bill establishes the time and location of the sending and receipt of an electronic document, although the parties to a transaction may agree to alter the effect of these provisions. The bill also permits a sender to expressly provide in an electronic document that the document is deemed to be sent from a different location. The bill also establishes the legal effects of any change or error in an electronic document that occurs in a transmission between the parties to a transaction. These effects depend in part upon whether the parties have consented to the use of a security procedure and whether the transaction is an automated transaction involving an individual.

With certain exceptions, this bill permits the use of an electronic document to satisfy any law that requires document retention, as long as the retained information satisfies certain requirements relating to content and accessibility. An electronic document retained in compliance with these provisions has the same legal status as the original document and need not contain any information the sole purpose of which is to enable the document to be sent, communicated, or received. Under current law, this ancillary information is normally required to be retained if the document to which it is attached is required to be retained.

The bill provides that it does not apply to any new laws enacted by this state, after enactment of this bill, that prohibit a person from using an electronic document to satisfy any requirement that the person retain a document for evidentiary, audit, or like purposes. It is unclear, though, what types of retention requirements are enacted for "evidentiary, audit, or like purposes." It is also unclear how this provision relates to other provisions of the bill which provide that an electronic document

institution. Inmates are restrained and required to wear distinctively colored outer garments while on work assignments under the program. This bill eliminates DOC's authority to operate such a program.

***** ANALYSIS FROM –4471/3 *****

Under current law, DOC may require that a serious child sex offender (a person who has been convicted of sexual assault of a child under the age of 13) who is on or being placed on probation undergo antiandrogen treatment (pharmacological treatment using an antiandrogen — a substance that inhibits the biological effects of male hormones such as testosterone — or the chemical equivalent of an antiandrogen) as a condition of probation. DOC or the parole commission may also impose such a requirement as a condition of a child sex offender's parole. Neither DOC nor the parole commission may base a decision to parole a child sex offender on the offender's suitability or willingness to undergo the treatment. But a child sex offender's unwillingness to undergo antiandrogen treatment may affect the offender's "presumptive mandatory release."

Under current law, a person sentenced to imprisonment in a state prison is generally entitled to be released on his or her mandatory release date; that is, once he or she has served two–thirds of his or her sentence. However, if a person is sentenced to imprisonment for certain serious felonies, including sexual assault of a child, the mandatory release date is merely a presumptive mandatory release date. The parole commission may deny such a person presumptive mandatory release if, among other things, the person is a child sex offender who refuses to participate in recommended antiandrogen treatment.

This bill eliminates the antiandrogen treatment program.

***** ANALYSIS FROM –4639/2 *****

Under current law, DOC is required to provide adequate health care to a person confined in one of its facilities. If a person confined in a DOC facility requests medical or dental services, the department must generally require the person to pay a deductible, copayment, or similar charge of at least $2.50 for each request. This bill requires DOC to promulgate emergency rules under which the department would generally require a person confined in a DOC facility to pay at least $7.50 for each request for medical or dental services.

***** ANALYSIS FROM –4638/1 *****

Under current law, DOC is required to charge a fee to each person on probation, parole, or extended supervision to partially reimburse DOC for the costs of providing supervision and services. If a person on probation, parole, or extended supervision is subject to administrative or minimum supervision (the least intensive forms of supervision) by DOC, DOC must have a goal of receiving at least $1 per day, if appropriate, from the person. This bill requires DOC to promulgate emergency rules that would require DOC to have a goal of receiving at least $2 per day in such cases, if appropriate.

***** ANALYSIS FROM –4532/2 *****

COURTS AND PROCEDURE

CIRCUIT COURTS

Under current law, generally, when a person files a civil action in circuit court, appeals a municipal court decision or administrative hearing decision to circuit court, or is the subject of a forfeiture action in circuit court, the person is required to pay a court support services fee of $40 in addition to the regular filing fee. This bill raises the $40 court support services fee to $52. If the amount of the recovery sought exceeds $5,000 (the limit in small claims actions), a person filing a civil action in circuit court or bringing a garnishment action or wage earner claim is required to pay a court support services fee of $100 in addition to the regular filing fee. This bill raises the $100 court support services fee to $130. If the amount of the recovery sought is less than or equal to $5,000, a person filing a civil action in circuit court or bringing a garnishment action or wage earner claim is required to pay a court support services fee of $30 in addition to the regular filing fee. This bill raises the $30 filing fee to $39.

*** ANALYSIS FROM –4548/2 ***

CRIMES

FELONY PENALTIES

Under current law, crimes punishable by imprisonment of more than one year are felonies. Virtually every felony created in the criminal code is put in one of six classes (Class A, B, BC, C, D, or E), and each class has a specific maximum term of imprisonment and a maximum fine. Class A felonies are punishable by life imprisonment. For other classified felonies committed on or after December 31, 1999, the maximum terms of imprisonment are as follows:

Class B	60 years
Class BC	30 years
Class C	15 years
Class D	10 years
Class E	5 years

Except for Class A and Class B felonies, which are not punishable by a fine, each classified felony has a maximum fine of $10,000.

This bill does the following with respect to criminal offenses and penalties for them:

1. *New felony classes.* The bill expands the number of felony classes from six to nine and, except for Class A and Class B felonies, creates new maximum terms of imprisonment and new maximum fines. The felony classes under the bill and their respective maximum terms of imprisonment and maximum fines are as follows:

Class of Felony	*Maximum Imprisonment*	*Maximum Fine*
Class A	Life imprisonment	Not applicable
Class B	60 years	Not applicable
Class C	40 years	$100,000

Class D	25 years	$100,000
Class E	15 years	$50,000
Class F	12 years, 6 months	$25,000
Class G	10 years	$25,000
Class H	6 years	$10,000
Class I	3 years, 6 months	$10,000

2. *Classification of felonies.* The bill places felony offenses that are classified under current law into the new felony classes, with the exception of a few classified felony offenses that are reduced to misdemeanor offenses. In addition, the bill places unclassified felony offenses (including all felonies created outside of the criminal code) into the new felony classes, with the exception of certain unclassified felony offenses that are reduced to misdemeanor offenses and offenses that are felonies only because of the application of a penalty enhancer.

As a general rule, the bill places a felony offense into a felony class based on the maximum amount of time that a person committing the offense before December 31, 1999, could serve in prison before being released on parole under the mandatory release law (see below, item 1 under **THE STRUCTURE OF FELONY SENTENCES**, item 1). However, in some cases a felony is placed in a higher or lower felony class than the one based on the mandatory release date for a maximum sentence for an offence committed before December 31, 1999. For those felony offenses that are reduced to misdemeanor offenses under the bill, the new penalty for the offense is a fine of not more than $10,000 or imprisonment of not more than nine months or both.

3. *Changes in property offenses.* Under current law, the penalties for certain property offenses in the criminal code (such as theft, criminal damage to property, receiving stolen property, issuing worthless checks, and various kinds of fraud) are based on the value of the property stolen, damaged, or otherwise involved in the offense. Before the enactment of the 2001–03 biennial budget bill (2001 Wisconsin Act 16), the threshold between misdemeanor and felony penalties for most of these crimes was $1,000. Thus, if the value of the property involved was $1,000 or less, the crime was a misdemeanor. If the value of the property involved was more than $1,000, the crime was a felony. For some crimes, the severity of the felony penalties also depends on the dollar value of the property involved. Thus, before the enactment of Act 16, if a person committed the offense of theft and the value of the property involved was more than $1,000 but not more than $2,500, the person was guilty of a Class E felony. If the value of the property involved exceeded $2,500, the person was guilty of a Class C felony. Act 16, however, replaced such three–tier classification schemes (with one exception) with two–tier systems, by abolishing the lower level felony offenses (such as the Class E version of theft). Act 16 also set the threshold between misdemeanors and felonies for most property offenses in the criminal code that are based on the dollar value of the property involved at $2,500.

This bill restores the thresholds between misdemeanors and felonies for criminal code property offenses that are based on the dollar value of the property involved to their pre–Act 16 levels. The bill also establishes new four–tier

classification schemes for those offenses which, before the enactment of Act 16, were governed by a three–tier classification scheme. To illustrate, under the bill, theft is penalized as follows:

Dollar Value of Property Involved	*Class of Misdemeanor or Felony*
$1,000 or less	Class A misdemeanor
More than $1,000 but not more than $5,000	Class I felony
More than $5,000 but not more than $10,000	Class H felony
More than $10,000	Class G felony

4. *Felony murder.* Under current law, a person commits felony murder if he or she causes the death of another while committing or attempting to commit certain felonies (such as sexual assault, arson or armed robbery). If a person commits felony murder, the maximum period of imprisonment for the felony the person committed or attempted to commit is increased by not more 20 years. This bill provides that the maximum period of imprisonment for the felony the person committed or attempted to commit is increased by not more 15 years.

5. *Changes to the crime of carjacking.* Under current law, a person is guilty of carjacking if he or she intentionally takes any vehicle without the consent of the owner while possessing a dangerous weapon and by using or threatening the use of force or the weapon against another. This bill classifies every carjacking offense as a Class C felony, including an offense resulting in a person's death (currently a Class A felony), and adds carjacking to the list of offenses subject to the felony murder statute (see item 4 above, *Felony murder*).

6. *Increase in certain misdemeanor penalties.* The bill increases penalties for a few misdemeanor offenses by classifying them as felony offenses. The misdemeanor offenses that are changed to felony offenses by the bill (and the classification into which the offense is placed) are as follows:

A) Stalking (Class I felony).
B) Criminal damage to railroad property (Class I felony).
C) Possession of a firearm in a school zone (Class I felony).
D) Discharge of a firearm in a school zone (Class G felony).

7. *Elimination of certain minimum penalty provisions.* Current law requires a court to impose a minimum sentence of imprisonment in certain cases. In other cases current law specifies a minimum sentence of imprisonment but also allows a court, in the exercise of its discretion, to impose a lesser sentence of imprisonment or no imprisonment at all (a presumptive minimum prison sentence). For the most part, this bill eliminates both mandatory and presumptive minimum prison sentences for felony offenses. The bill, however, does not eliminate mandatory prison sentence requirements for Class A felonies, which carry a mandatory sentence of life imprisonment (see below, **SENTENCES OF LIFE IMPRISONMENT**), nor does it change the persistent repeater penalty enhancers (often called the "three strikes, you're out" and "two strikes, you're out" laws), which require a sentence of life imprisonment without possibility of release. It also does not change the requirement that a person be given a minimum sentence of imprisonment if he or she is convicted of a repeat

serious sex crime or a repeat violent crime, though the bill provides that, instead of a minimum sentence of five years, the court must impose a bifurcated sentence that includes a minimum term of confinement in prison of three years and six months (see below, **THE STRUCTURE OF FELONY SENTENCES**, item 2, for a description of bifurcated sentences). In addition, the bill does not change the minimum mandatory sentence of six months for fifth and subsequent offenses of operating a motor vehicle while intoxicated.

8. *Elimination of mandatory consecutive sentences.* Under current law, a court sentencing a person convicted of a crime generally may provide that any sentence imposed run concurrent with or consecutive to any other sentence imposed at the same time or any sentence imposed previously. However, a court must impose a consecutive sentence if the person was convicted of certain escape offenses, possession or discharge of a firearm in a school zone, using or possessing a handgun and an armor–piercing bullet while committing another crime, or violating conditions of lifetime supervision by committing another crime. This bill eliminates the requirement that consecutive sentences be imposed in these cases. The bill also imposes new requirements relating to bifurcated sentences and sentences imposed under current law that are ordered to run consecutively to each other (see below, **THE STRUCTURE OF FELONY SENTENCES**, item 3–C).

PENALTY ENHANCERS

Current law contains various penalty enhancers that allow the penalties for a crime to be increased if the crime is committed under certain circumstances. For instance, current law provides penalty enhancers for committing a crime using a dangerous weapon, committing a crime while wearing a bulletproof garment, committing a crime against a victim chosen because of his or her race, religion, color, disability, sexual orientation, national origin, or ancestry (the "hate crime" enhancer), committing certain violent crimes against an elder person, and committing certain sex crimes while infected with a sexually transmitted disease. Current law also provides for penalty enhancers that may be triggered by the defendant's status at the time he or she committed the crime. For instance, current law provides a penalty enhancer for habitual criminals (persons who commit a crime after having been previously convicted of a crime) and for persons responsible for the welfare of a child who commit certain crimes against the child.

The bill retains the current penalty enhancers for: 1) habitual criminals; 2) using a dangerous weapon in the commission of a crime; 3) committing a violent crime in a school zone; 4) committing certain domestic abuse offenses within 72 hours after an arrest for a domestic abuse incident; 5) committing a "hate crime"; 6) distributing a controlled substance to a person under the age of 17; and 7) distributing a controlled substance within 1,000 feet of a school, park, correctional institution, or certain other facilities. The remaining penalty enhancers contained in current law are eliminated and are instead included in a list of aggravating factors that must be considered by a court when sentencing a person.

In addition, under current law, if a person violates certain prohibitions relating to operating a motor vehicle while intoxicated and, at the time of the offense, a child under the age of 16 is in the vehicle, the penalties for the offense double. This bill

retains this penalty enhancer for most of the offenses involving operating a motor vehicle while intoxicated, but the bill eliminates the enhancer for the crimes of homicide by intoxicated use of a vehicle and injury by intoxicated use of a vehicle.

THE STRUCTURE OF FELONY SENTENCES (OTHER THAN LIFE SENTENCES)

1. *The structure of prison sentences for felony offenses committed before December 31, 1999.* If a person is sentenced to prison for a felony committed before December 31, 1999, the person will usually have three possible ways of being released from prison on parole: discretionary parole granted by the parole commission (for which a person is usually eligible after serving 25% of the sentence or six months, whichever is greater); mandatory release on parole (usually granted automatically after the person serves two–thirds of the sentence); or special action parole release by the secretary of corrections (a program designed to relieve prison crowding). However, the person could be subject to more restrictive discretionary parole eligibility provisions or to restrictions on mandatory release under certain circumstances (for example, if the person has one or more prior convictions for certain serious felonies).

2. *The structure of prison sentences for felony offenses committed on or after December 31, 1999.* Under 1997 Wisconsin Act 283, if a court chooses to sentence a felony offender to a term of imprisonment in state prison for a felony committed on or after December 31, 1999, the court must do so by imposing a bifurcated sentence that includes a term of confinement in prison followed by a term of community supervision (called "extended supervision"). The offender is not eligible for parole. A bifurcated sentence imposed under 1997 Wisconsin Act 283 must be structured as follows:

A) The total length of the bifurcated sentence may not exceed the maximum term of imprisonment allowable for the felony.

B) The court must set the term of confinement in prison portion of the sentence to be at least one year but not more than 40 years for a Class B felony, 20 years for a Class BC felony, ten years for a Class C felony, five years for a Class D felony, or two years for a Class E felony. If the person is being sentenced to prison for a felony that is not in one of these classes, the term of confinement in prison portion of the sentence must be at least one year but not more than 75% of the total length of the bifurcated sentence.

C) The term of extended supervision must equal at least 25% of the length of the term of confinement in prison. For example, if a person is convicted of a Class B felony committed on or after December 31, 1999, and a judge sentences the person to the maximum allowable 40–year term of confinement in prison, the term of extended supervision would have to be at least ten years. There is no limit on the length of the term of extended supervision, other than the limit that results from the requirements that the term of confinement in prison portion of a bifurcated sentence be at least one year and that the total bifurcated sentence not exceed the maximum term of imprisonment specified by law for the crime.

During the term of extended supervision, the person is subject to supervision by DOC and is subject to conditions set by both the court and DOC. If a person violates a condition of extended supervision or a rule promulgated by DOC relating

to extended supervision, the person's extended supervision may be revoked in an administrative proceeding and the person may be returned to serve a period of time in prison. The length of time for which the person is returned to prison is determined by an administrative law judge or, if the person waives a revocation hearing, by DOC.

3. *The changes made by this bill.* This bill makes the following changes relating to the imposition of bifurcated sentences:

A) The bill establishes new maximum terms of confinement in prison for all felony classes, except for Class A and Class B. The bill also limits the amount of extended supervision that a court can impose for classified felonies. The maximum term of confinement in prison and the maximum term of extended supervision for each classified felony (other than Class A felonies) is as follows:

Class of Felony	*Maximum Term of Confinement in Prison*	*Maximum Term of Extended Supervision*
Class B	40 years	20 years
Class C	25 years	15 years
Class D	15 years	10 years
Class E	10 years	5 years
Class F	7 years, 6 months	5 years
Class G	5 years	5 years
Class H	3 years	3 years
Class I	1 year, 6 months	2 years

B) Under the bill, when a court is imposing a bifurcated sentence it must consider any advisory sentencing guidelines for the offense adopted by the sentencing commission (see below, **SENTENCING COMMISSION**) or, if the sentencing commission has not adopted guidelines for the offense, the temporary advisory guidelines adopted by the criminal penalties study committee (created by 1997 Wisconsin Act 283). In addition, the bill requires the sentencing court to consider the protection of the public, the gravity of the offense, and the rehabilitative needs of the defendant, along with any applicable mitigating and aggravating circumstances. The bill includes a partial list of aggravating circumstances that a court must consider. The list incorporates the provisions of current penalty enhancers that are being eliminated by the bill (see above, **PENALTY ENHANCERS**). The bill also generally requires the court to state the reasons for its sentencing decision in open court and on the record.

C) Under the bill, when a court imposes a bifurcated sentence on a person who is also subject to a prison sentence for a crime committed before December 31, 1999 (an indeterminate sentence), the court must specify all of the following: 1) whether the confinement in prison portion of the bifurcated sentence is to run concurrent with or consecutively to the imprisonment portion of the indeterminate sentence; and 2) whether the period of parole under the indeterminate sentence is to run concurrent with or consecutively to the term of extended supervision portion of the bifurcated

sentence. The court must make the same specifications when imposing an indeterminate sentence on a person who is also subject to a bifurcated sentence.

D) The bill allows DOC to take custody of a person who is on extended supervision in order to investigate an alleged violation of a condition of extended supervision. The bill also provides that, if a person on extended supervision admits that he or she has violated a condition or rule of extended supervision, DOC may, as a sanction for the violation, confine the person for not more than 90 days in a DOC regional detention facility or, with the consent of the sheriff, in a county jail.

E) The bill changes the procedure for revoking extended supervision by requiring that a court determine how long to send a person back to prison after his or her extended supervision is revoked. Under the bill, DOC or the administrative law judge who made the revocation decision must make a recommendation to the court concerning the amount of time for which the person should be returned to prison. The court then reviews the recommendation and makes the final decision as to the amount of time for which the person is returned to prison.

F) The bill creates a procedure by which DOC or a person on extended supervision may petition a court to modify the conditions of extended supervision set by the court. The court may hold a hearing on a petition to modify extended supervision and may grant the petition if it determines that the requested modification would meet the needs of DOC and the public and would be consistent with the objectives of the person's bifurcated sentence.

G) The bill creates a procedure by which certain older prisoners who have been given a bifurcated sentence may petition the sentencing court for a modification of the terms of the sentence. The procedure is available to prisoners who are 65 years of age or older and have served at least five years of the term of confinement in prison portion of their bifurcated sentence and to prisoners who are 60 years of age or older and have served at least ten years of the term of confinement in prison portion of the bifurcated sentence.

Under the procedure, the prisoner files a petition with the prison's program review committee, which may then refer the petition to the sentencing court if it finds that the public interest would be served by a modification of the prisoner's bifurcated sentence. If a petition is referred to a sentencing court, the court must determine whether the public interest would be served by a modification of the prisoner's bifurcated sentence. The victim of the prisoner's crime has a right to provide a statement concerning the modification of the sentence.

If the court decides that the public interest would be served by such a modification, the court must modify the sentence by: 1) reducing the term of confinement in prison portion of the sentence to a number that provides for the release of the prisoner to extended supervision; and 2) increasing the term of extended supervision of the prisoner by the same number, so that the total length of the bifurcated sentence does not change.

H) The bill creates a procedure by which a prisoner who has been given a bifurcated sentence and who has a terminal condition (defined as an incurable condition caused by injury, disease, or illness, as a result of which the person has a medical prognosis that his or her life expectancy is 6 months or less) may petition the

sentencing court for a modification of the terms of the sentence. This procedure and the conditions under which and the manner by which a court may modify a bifurcated sentence for such a person are identical to those that are described in the second and third paragraphs of item 3–G, except that the prisoner must submit affidavits from two physicians setting forth a diagnosis that the prisoner has a terminal condition.

I) The bill specifies that, if a misdemeanor offender may be sentenced to prison because of the application of a sentence enhancer and the court decides to sentence the person to prison, the court must impose a bifurcated sentence. In sentencing a person to prison in such a case, the term of confinement in prison portion of the sentence may not constitute more than 75% of the total bifurcated sentence.

SENTENCES OF LIFE IMPRISONMENT

If a person is sentenced to life imprisonment for an offense committed before December 31, 1999, the person usually must serve 20 years minus time calculated under the mandatory release formula before he or she is eligible for release on parole. If the person does not receive extensions due to violations of prison rules, he or she reaches parole eligibility after serving 13 years, four months. However, a court may set a parole eligibility date for a person serving a life sentence that is later than the usual parole eligibility date or may provide that the person is not eligible for parole. No person serving a life sentence of any kind is entitled to mandatory release on parole.

If a person is sentenced to life imprisonment for a crime committed on or after December 31, 1999, he or she is not eligible for parole. Instead, the court who is sentencing the person to life imprisonment must do one of the following: 1) provide that the person is eligible for release to extended supervision after serving 20 years; 2) set a date on which the person becomes eligible for extended supervision, as long as that date requires the person to serve at least 20 years; or 3) provide that the person is not eligible for extended supervision. If the court provides that the person is eligible for extended supervision, the person may petition the sentencing court for release to extended supervision on or after the extended supervision eligibility date. A person sentenced to life imprisonment who is released to extended supervision is on extended supervision for the remainder of his or her life and, like a person on extended supervision under a bifurcated sentence (see above, **THE STRUCTURE OF FELONY SENTENCES**, item 2–C), may have his or her extended supervision revoked in an administrative proceeding and be returned to prison if he or she violates a condition of extended supervision or a rule promulgated by DOC relating to extended supervision. A person returned to prison after a revocation of extended supervision may not petition for rerelease to extended supervision until he or she has served a period of time back in prison. The time period, which must be at least five years, is determined by an administrative law judge or, if the person waived a revocation hearing, by DOC.

With one exception, this bill changes the procedures regarding revocation of extended supervision for a person serving a life sentence in the same way that it does for a person serving a bifurcated sentence. (See above, **THE STRUCTURE OF FELONY SENTENCES**, items 3–D and 3–E.) The only distinction is that when extended supervision of a person serving a life sentence is revoked, the recommendation by

DOC or an administrative law judge and the court's final decision concerning the amount of time for which the person should be returned to prison must provide for the person to be returned to prison for at least five years.

SENTENCING COMMISSION

The bill creates a sentencing commission consisting of 18 voting members and three nonvoting members, all of whom serve three year terms. Under the bill, the sentencing commission is responsible for studying sentencing practices throughout the state. Using the information it obtains, the sentencing commission must adopt advisory sentencing guidelines for use by judges when imposing sentences for felonies committed on or after the effective date of the changes made in this bill regarding felony classifications. The sentencing commission must also assist the legislature in assessing the cost of changes in statutes affecting criminal sentencing and provide information regarding sentencing to judges, lawyers, state agencies, and the legislature. In addition, the sentencing commission must study whether race is a basis for imposing sentences in criminal cases and submit a report and recommendations on this issue to the governor, the legislature, and the supreme court. The duties of the sentencing commission end on December 31, 2007.

JOINT REVIEW COMMITTEE ON CRIMINAL PENALTIES

This bill creates a joint review committee on criminal penalties (joint review committee), which will review proposed legislation that creates a new crime or revises a penalty for an existing crime. The joint review committee is comprised of one majority party member and one minority party member from each house of the legislature, the attorney general or his or her designee, the secretary of corrections or his or her designee, the state public defender or his or her designee, two reserve judges, and two members of the public appointed by the governor, one of whom must have law enforcement experience in this state and one of whom must be an elected county official.

Under this bill, when a bill that is introduced in either house of the legislature proposes to create a new crime or revise a penalty for an existing crime and the bill is referred to a standing committee of the house in which it is introduced, the chairperson may request the joint review committee to prepare a report on the bill. If the bill is not referred to a standing committee, the speaker of the assembly, if the bill is introduced in the assembly, or the presiding officer of the senate, if the bill is introduced in the senate, may request the joint review committee to prepare a report on the bill. A report on a bill by the joint review committee must address such issues as the costs that are likely to be incurred or saved if the bill is enacted, the consistency of penalties proposed in the bill with existing criminal penalties, and whether acts prohibited under the bill are prohibited under existing criminal statutes. If a bill that is introduced in either house of the legislature proposes to create a new crime or revise a penalty for an existing crime, a standing committee to which the bill is referred may not vote on whether to recommend the bill for passage and the bill may not be passed by the house in which it is introduced before the joint review committee submits a report or, if a report is requested by the speaker of the assembly or the presiding officer of the senate, before the 30th day after the report is requested, whichever is earlier.

The bill also requires the joint review committee to recommend standards and procedures to be used by a court to modify a bifurcated sentence and to propose legislation to implement those recommendations. Any legislation proposed by the joint review committee may permit a court to modify a previously imposed bifurcated sentence only by reducing the term of confinement in prison portion of the sentence and lengthening the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed does not change.

*** ANALYSIS FROM –4572/4 ***

CRIMES

LAW ENFORCEMENT TRAINING

Under current law, no person may be appointed permanently as a law enforcement or tribal law enforcement officer unless he or she first completes law enforcement training approved by the law enforcement standards board and has been certified by the board as being qualified to be a law enforcement or tribal law enforcement officer. The training program must include: 1) training regarding domestic abuse; 2) training on emergency detention and protective placement standards and procedures and certain information on mental health and developmental disabilities agencies and resources; 3) at least one hour of instruction relating to Alzheimer's disease or other related dementias; and 4) training on police pursuit standards, guidelines, and driving techniques. This bill requires that, as of January 1, 2003, the training include training on responding to acts of terrorism.

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Under current law, each county is required to appoint a local emergency planning committee that is responsible for facilitating preparation and implementation of an emergency response plan for responding to the release of a hazardous substance. The division of emergency management administers a grant program to provide local emergency planning committees with funds for maintaining, exercising, reviewing, and implementing emergency response plans related to the release of a hazardous substance, purchasing computers, purchasing equipment and supplies that may be used in responding to the release of a hazardous substance, and for administrative costs.

The bill creates a new grant program administered by the office of justice assistance to provide funds to local emergency planning committees for the purchase of materials and services related to investigating, preventing, and responding to acts of terrorism. The grant program is for fiscal years 2001–02 and 2002–03. The bill defines "acts of terrorism" as certain felonies that are committed with intent to influence the policy of a governmental unit, punish a governmental unit for a prior policy decision, affect the conduct of a governmental unit by homicide or kidnapping, or intimidate or coerce a civilian population. The materials and services that local emergency planning committees may use the grant funds to purchase include: communications equipment; safety or protective equipment for emergency response personnel; training related to the investigation or prevention of, or response to, acts of terrorism that pose a threat to the environment; and information systems,

software, or computer equipment for investigating acts of terrorism that pose a threat to the environment.

Currently, DOA is directed to provide police services to safeguard public property for which DOA has management responsibility. DOA may also contract with other state agencies to provide police services at other state properties. This bill increases the police officer positions authorized for DOA by 5.0 FTE PR positions. The cost of the positions is paid from charges assessed against the appropriations that finance the operation of the properties that are protected by the officers.

***** ANALYSIS FROM –4490/6 *****

EDUCATION

PRIMARY AND SECONDARY EDUCATION

Under current law, annually the state determines how much general school aid to appropriate to ensure that partial school aid (general school aid and the property tax levy) equals two–thirds of state school aids (general school aids, certain categorical aids, and the school levy tax credit). In other words, the state determines how much general school aid to appropriate to pay two–thirds of statewide school costs (two–thirds funding).

This bill excludes from the definition of partial school revenues the amount by which the property tax levy for debt service on debt approved by a referendum exceeds $490,000,000. The effect of this provision is to lower the amount of aid needed to meet two–thirds funding.

Under the current three–tiered school aid formula, the first tier of support is for costs shared between the state and school district up to a primary cost ceiling of $1,000 per pupil. The state's share at this level is calculated using a guaranteed property valuation of $2,000,000 per pupil. Every school district is guaranteed no less in general aid than this primary aid amount. This bill reduces this primary guarantee to $1,500,000.

Current law generally limits the increase in the total amount of revenue per pupil that a school district may receive from general school aids and property taxes in a school year to the amount of revenue increase allowed per pupil in the previous school year increased by the percentage change in the consumer price index. This bill replaces the inflation–based adjustment with a flat $210 per pupil increase for the revenue limit calculated for the 2002–03 school year, although the bill allows a school board to override this change by a two–thirds vote. The bill directs DPI to encourage school districts to accommodate this reduction in the revenue limit increase without negatively affecting their instructional programs.

***** ANALYSIS FROM –4559/1 *****

Current law requires each school board and charter school that operates high school grades to administer a high school graduation examination to all 11th and 12th grade pupils beginning in the 2002–03 school year. This bill delays implementation of the examination until the 2004–05 school year.

***** ANALYSIS FROM –4491/3 *****

HIGHER EDUCATION

This bill prohibits the UW board of regents from increasing total resident, undergraduate tuition at all UW System institutions for the 2002–03 academic year

to an amount that exceeds 10% of total resident, undergraduate tuition charged for the 2001–02 academic year without first obtaining the approval of JCF and the secretary of administration.

***** ANALYSIS FROM –4709/2 *****

Currently, the rate of the property tax levied by a technical college district board is limited to 1.5 mills. This bill provides that the amount of the property tax levied by a district board is limited to the lesser of the amount generated by a levy rate of 1.5 mills or the amount levied in the previous year increased by the rate of inflation. A district board may exceed this limit if it obtains the approval of the district electors at a referendum.

The bill also limits the increase in fees charged technical college students in the 2002–03 school year to 10%.

***** ANALYSIS FROM –4543/5 *****

Under current law, the technical college system board awards a $500 grant to each recent high school graduate who enrolls in the system and maintains a 2.0 grade point average. This bill eliminates this grant program.

Instead, the bill directs the board to pay a student's tuition and fees at a technical college if the student is a dislocated worker who has been referred to the technical college by a local work force development board and who maintains a 2.0 grade point average. Dislocated workers are certain individuals who have been terminated or laid off from employment.

***** ANALYSIS FROM –4572/4 *****

Current law authorizes the technical college system board to establish and supervise training programs in fire prevention and protection. This bill requires the programs to include training in responding to acts of terrorism.

***** ANALYSIS FROM –4678/2 *****

The bill appropriates moneys from the utility public benefits fund for paying a portion of the energy costs of the UW System in fiscal year 2001–02 and fiscal year 2002–03. The bill also prohibits the board of regents of the UW System from spending a portion of its general purpose revenue funding for energy costs in fiscal year 2001–02 and fiscal year 2002–03 without the approval of the secretary of administration.

***** ANALYSIS FROM –4683/1 *****

OTHER EDUCATIONAL AND CULTURAL AGENCIES

This bill eliminates funding for the Milwaukee Public Museum effective July 1, 2002.

***** ANALYSIS FROM –4459/3 *****

ENVIRONMENT

Current law requires a person to pay a supplemental title fee of $7.50 when the person applies for a certificate of title for a new motor vehicle or for a certificate of title after a transfer of ownership of a used motor vehicle. The supplemental title fees are deposited into the transportation fund. On each October 1, an amount equal to the amount of the supplemental title fees collected during the previous fiscal year is transferred from the general fund into the environmental fund.

This bill reduces the amount of the transfer from the general fund to the environmental fund by $555,000 per fiscal year beginning in fiscal year 2002–03.

*** ANALYSIS FROM –4570/3 ***

HEALTH AND HUMAN SERVICES

HEALTH

Under current law, DHFS must award grants of general purpose revenues totalling $3,075,000 in each of fiscal years 2001–02 and 2002–03 to community health centers (health care entities that provide primary health care, health education, and social services to low–income persons). The grants include specified amounts to a community health center in Milwaukee, a nurse–managed community health center in Milwaukee, Health–Net of Janesville, Inc., and supplementary amounts to community health centers that receive federal migrant health center moneys.

This bill eliminates the grants to community health centers on July 1, 2002.

*** ANALYSIS FROM –4572/4 ***

Under current law, DHFS must develop and implement a statewide trauma care system by July 1, 2002. This bill increases funding from general purpose revenues for the statewide trauma care system, including 2.0 FTE GPR project positions for fiscal year 2002–03. The bill also increases general purpose revenue funding for DHFS for surveillance of communicable and infectious diseases and biological and chemical potential threats to state residents and for the state laboratory of hygiene for microbiological activities.

Under current law, persons seeking initial licensure as emergency medical technicians must, among other things, satisfactorily complete a course of instruction and training prescribed by DHFS. For emergency medical technician licensure renewals, the applicant must complete training requirements promulgated by DHFS as rules. Persons seeking initial certification or certification renewal as first responders must complete courses approved by DHFS that meet or exceed federal guidelines. This bill expands training requirements for initial licensure or licensure renewal as emergency medical technicians or initial certification or certification renewal as first responders to require that, as of January 1, 2003, applicants satisfactorily complete training for response to acts of terrorism.

*** ANALYSIS FROM –4705/1 ***

Currently, JCF must transfer annually on June 15, beginning in 2004, to the tobacco control fund from the permanent endowment fund the lesser of $25,000,000 or 8.5% of the market value of the investments in the permanent endowment fund on June 1 in that year.

This bill creates a sum sufficient appropriation of general purpose revenues to be transferred to the tobacco control fund annually on June 15, beginning in 2004, that is equal to $25,000,000, less the amount transferred to the tobacco control fund by JCF from the permanent endowment fund in that year.

*** ANALYSIS FROM –4664/2 ***

HEALTH AND HUMAN SERVICES

HEALTH

Under current law, DHFS provides financial assistance for the treatment of kidney disease, cystic fibrosis, and hemophilia. This bill requires DHFS to implement certain cost–saving measures relating to the provision of that financial assistance.

Specifically, under current law, DHFS may not provide aid for the treatment of kidney disease if the recipient has other forms of aid available from the federal medicare program or from private insurance coverage. Similarly, DHFS may not provide reimbursement for any costs for the treatment of hemophilia that are payable under any other state or federal program or under any grant, contract, or other arrangement. This bill permits DHFS to provide financial assistance for the treatment of kidney disease, cystic fibrosis, or hemophilia to a person only if the person has first applied for assistance under all other state–funded health care assistance programs for which the person may be eligible.

Current law requires the financial assistance provided by DHFS for the treatment of kidney disease be equal to the allowable charges for that treatment under the federal medicare program. This bill eliminates that requirement. The bill also requires DHFS to promulgate rules to contain the cost of assistance for the victims of kidney disease, cystic fibrosis, or hemophilia, which rules may include managed care requirements. Finally, under the bill, if the amounts appropriated for assistance for the victims of kidney disease, cystic fibrosis, or hemophilia are insufficient to provide assistance to all persons who are eligible to receive that assistance, DHFS may establish waiting lists for the receipt of that assistance and may assign priorities to persons who are on those waiting lists.

***** ANALYSIS FROM –4668/2 *****

MEDICAL ASSISTANCE

This bill requires the secretary of health and family services to create a prescription drug prior authorization committee to advise DHFS on issues related to prior authorization decisions concerning prescription drugs made on behalf of medical assistance recipients.

***** ANALYSIS FROM –4678/2 *****

HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

The bill appropriates moneys from the utility public benefits fund for paying a portion of the energy costs of DHFS in fiscal year 2002–03. The bill also prohibits DHFS from spending a portion of its general purpose revenue funding for energy costs in fiscal year 2002–03 without the approval of the secretary of administration.

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, a person who has been found to be a sexually violent person may be committed to DHFS, in which case DHFS must confine the person in an institution. After 18 months of institutional care, the person may petition the court

to order his or her supervised release. If the person is a serious child sex offender, the court, when deciding whether he or she should be placed on supervised release, may consider, among other things, what arrangements are available to ensure that the person has access to and will participate in antiandrogen treatment or other necessary treatment, although the court may not base a decision to release a sexually violent person who is a child sex offender on the person's suitability or willingness to undergo the treatment. If the court finds that the person is appropriate for supervised release, DHFS and the social services department of the county in which the person will reside must prepare a plan — which the court must approve — that identifies the person's needs for treatment and services, including antiandrogen treatment. This bill eliminates the antiandrogen treatment program.

*** ANALYSIS FROM –4550/8 ***

LOCAL GOVERNMENT

Under current law, payments under the shared revenue program, the public utility distribution program, the county mandate relief program, the expenditure restraint program, and the small municipality shared revenue program are paid from the general fund. These programs are collectively referred to as shared revenue programs. This bill reduces the total amount of shared revenue payments in 2002 and 2003 and sunsets the shared revenue programs beginning in 2004.

Under the bill, in 2002 and 2003, DOR determines the total amount of payments under the shared revenue programs to be paid to each municipality and county in that year. DOR then reduces the total amount of such payments to each municipality or county by subtracting from the payments an amount based on the municipality's or county's population, so that the total amount of the reduction to all such payments in each year is $300,000,000.

Under the bill, in 2002 and 2003, a portion of the payments under the shared revenue programs will be paid from moneys in the permanent endowment fund, which consists of all the proceeds from the sale of the state's right to receive payments under the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998, and all investment earnings on the proceeds. In 2002, the amount from the permanent endowment fund to make payments under the shared revenue programs is $580,000,000 less any amount expended from the permanent endowment fund for purposes relating to the contracting of public debt during the 2001–02 fiscal year. In 2003, the amount from the permanent endowment fund to make such payments is the amount, as determined by DOA, that is not designated for other purposes. In addition, the bill creates a sum sufficient appropriation from the permanent endowment fund, in an amount determined by DOA, to be used for purposes relating to the contracting of public debt.

*** ANALYSIS FROM –4586/2 ***

Under current law and subject to a number of exceptions, no county may impose an operating levy at an operating levy rate that exceeds .001 or the operating levy rate in 1992, whichever is greater. "Operating levy" is defined as the county purpose levy, less the debt levy, and "operating levy rate" is defined as the total levy rate minus the debt levy rate.

A county may exceed the limit under current law if its board adopts a resolution to do so and if that resolution is approved by the electors of the county in a referendum. The limit may also be exceeded if a county increases the services that it provides by adding responsibility for providing a service transferred to the county by another governmental unit.

Currently, if a county exceeds its operating levy rate limit, as determined by DOR, DOR must reduce the county's shared revenue payment and may ask DOT to reduce the county's general transportation aid payments.

Under this bill and subject to some exceptions, no city, village, town, or county (political subdivision) whose total levy rate is equal to or greater than one mill may increase its operating levy rate, each year, by a percentage that exceeds the sum of the rate of increase of inflation and population growth in the political subdivision. A political subdivision may exceed the rate of increase limit under the bill if its governing body adopts a resolution to do so and if that resolution is approved by the electors of the political subdivision in a referendum. The limit on the rate of increase under the bill does not apply to any increase in a political subdivision's operating levy that results from complying with a court order, and may be adjusted to account for a transfer of responsibility to provide a service between units of government.

In addition, the levy rate of increase limit under the bill does not apply in any county in which the operating levy that the county may impose under current law is less than the operating levy that the county may impose under the levy rate of increase limit that is created in the bill. Not later than August 15 each year, the bill requires DOR to notify every political subdivision of the increase in inflation and population that applies to the political subdivision.

***** ANALYSIS FROM –4585/2 *****

This bill authorizes a political subdivision to request a waiver from a state mandate, other than a state mandate in the area of health or safety. A state mandate is defined as a requirement for a political subdivision to engage in an activity or provide a service, or to increase the level of its activities or services.

Under the bill, a political subdivision may file a request for a waiver from a state mandate with DOR. DOR is required to forward the request to the administrative agency which is responsible for administering the state mandate. If no agency is responsible, the request remains with DOR. The agency, or DOR, determines whether to grant the request and notifies the political subdivision and DOR in writing. A waiver is effective for four years and may be extended.

By July 1, 2004, the bill requires DOR to submit a report to the governor and the legislature on the number of waivers requested, a description of each waiver request, the reason given for each waiver request, and the financial effects on the political subdivision of each waiver that was granted.

***** ANALYSIS FROM –4574/1 *****

COMMERCE AND ECONOMIC DEVELOPMENT

COMMERCE

Electronic mail prohibitions

The bill prohibits the user of an electronic mail service from sending an electronic mail solicitation or chain letter that uses the service provider's equipment

in a manner that violates the provider's solicitation or chain letter policy. The bill also prohibits any person from sending an electronic mail message or chain letter to an Internet user that uses the equipment of the Internet user's electronic mail service provider in a manner that violates the provider's solicitation or chain letter policy. The bill defines "Internet user" as a person that maintains an electronic mail address with an electronic service provider.

The above prohibitions apply only if the electronic mail service provider displays the solicitation or chain letter policy on the home page of its Internet Web site and makes printed copies of the policy available at no charge. The bill provides for damages for an electronic mail service provider that is injured by a person who violates either prohibition more than 30 days after the policy is displayed on the home page.

The bill also prohibits a person from sending an electronic mail solicitation unless the person includes, with the solicitation, a return electronic mail address or notice of a toll–free telephone number that the recipient may use to notify the person that the recipient does not want to receive solicitations. If the recipient provides such notice to the person, the bill prohibits the person from sending another solicitation to the recipient. In addition, the bill prohibits a person from knowingly sending an electronic mail message that represents either of the following: 1) that the message is from another person without the consent of that person; or 2) that the message is from an Internet domain name without the consent of the person that registered the name.

Internet privacy

The bill imposes certain requirements on persons that maintain Web sites for purposes of doing business in this state. First, such a person may not disclose, in exchange for money or anything else of value, information about a state resident that is obtained from the resident's use of the Internet, unless the resident consents to the disclosure. Second, such a person may not request a child to provide information to the person through the Internet that includes personal information about the child, unless the person makes a reasonable effort to obtain the consent of the child's parent or legal guardian.

The bill also requires a person that maintains a Web site for purposes of doing business in this state to display a notice on the home page of the Web site that describes any information that the person collects about visitors to the Web site, including any information that is sold or provided to third parties. If the person sells or provides information to third parties, the person must allow a visitor to the Web site to notify the person whether or not the visitor consents to the sale or provision of information. If a visitor notifies the person that the visitor does not consent, the person may not sell or provide the information.

***** ANALYSIS FROM –4510/5 *****

STATE GOVERNMENT

STATE BUILDING PROGRAM

Currently, if the building commission sells a state–owned building or structure, the commission must first use the net proceeds of the sale to retire any public debt that was incurred to finance construction or acquisition of the building or structure.

Then, any remaining net proceeds are credited to an appropriation that is made to JCF for use in the manner determined by JCF.

This bill provides that if, prior to July 1, 2003, the building commission sells any or all of the state office buildings located at 123 West Washington Avenue (Lorraine Building), 121 East Wilson Street (Lake Terrace Building), or 149 East Wilson Street in the city of Madison the commission must deposit the net proceeds of the sale, after retiring any outstanding debt that was incurred to finance construction or acquisition of the building, into the state general fund.

The bill also provides that if, during the period beginning on July 1, 2001, and ending on the day before the effective date of the provision described above, the building commission sells one of these state office buildings and any portion of the proceeds of that sale is transferred to the appropriation to JCF then on that effective date an amount equivalent to the lesser of the amount transferred or the unencumbered balance in that appropriation is transferred to the general fund.

***** ANALYSIS FROM –4507/4 *****

Currently, as work proceeds on a state building project, the state makes payments to the contractors, but the state retains 10% of the value of the work to be performed until 50% of the value of the work is completed. After this point, there is no retainage unless progress is not satisfactory, but the total retainage may never exceed 10% of the value of the work. Under this bill, the state retains not more than 5% of the value of the work to be performed.

***** ANALYSIS FROM –4666/1 *****

STATE EMPLOYMENT

This bill requires the secretary of administration to determine the number of positions in each state agency that were not funded as a result of any reduction in state agency operations appropriations under 2001 Wisconsin Act 16 for the 2001–03 fiscal biennium and any reduction in the appropriations required under this bill. Under the bill, the secretary must notify JCF of the determination. If the cochairpersons of JCF do not notify the secretary within 14 working days that the committee has scheduled a meeting to review the determination, the secretary must reduce each state agency's authorized positions for the 2002–03 fiscal year by the number of unfunded positions for that state agency. If, within 14 working days, the chairpersons of JCF notify the secretary that JCF has scheduled a meeting to review the determination, the secretary may make the reductions in the authorized positions only upon approval of JCF.

***** ANALYSIS FROM –4337/5 *****

STATE GOVERNMENT

STATE FINANCE

Under current law, if the secretary of administration (secretary) determines that previously authorized expenditures will exceed revenues in the current or forthcoming fiscal year by more than 0.5% of the estimated general purpose revenue (GPR) appropriations for that fiscal year, the secretary must immediately notify the governor, the presiding officers of each house of the legislature, and the joint committee on finance. After notification, the governor must submit a bill to correct the imbalance between projected revenues and authorized expenditures. If the

legislature is not in a floorperiod at the time of the secretary's notification, the governor must call a special session of the legislature and submit the bill for consideration at that session.

This bill revises the process by which the secretary and the governor may correct budgetary imbalances. Under the bill, in each even–numbered year, the LFB must prepare an estimate of GPR receipts and expenditures for the current fiscal biennium. In addition, at any time during a fiscal biennium, DOA and DOR may prepare an estimate of GPR receipts and expenditures for the current fiscal biennium.

If the LFB estimate or the DOA and DOR estimate concludes that previously authorized GPR expenditures will exceed GPR receipts by an amount greater than 2% of the previously authorized GPR appropriations for that fiscal biennium, the governor must declare a fiscal emergency no later than 15 days after the date on which LFB or DOA and DOR makes the determination. If the legislature is in a floorperiod on the date on which the governor declares a fiscal emergency, the governor, no later than 15 days after the date on which the governor declared a fiscal emergency, shall submit a bill to the legislature to correct the imbalance. If the legislature has not passed a bill to correct the imbalance before the close of the last regular floorperiod of the legislative session, the secretary may do any of the following to correct the imbalance: reduce any sum certain appropriation or any expenditure estimate that was previously approved by the secretary during the fiscal biennium or lapse or transfer moneys to the general fund, whichever is appropriate, from program revenue (PR) or segregated revenue (SEG) appropriations.

However, if the legislature is not in a floorperiod on the date on which the governor declares a fiscal emergency, the governor is not required to submit a bill to the legislature and the secretary may do any of the following to correct the imbalance: reduce any sum certain appropriation or any expenditure estimate that was previously approved by the secretary during the fiscal biennium or lapse or transfer moneys to the general fund, whichever is appropriate, from program revenue or segregated revenue appropriations.

Under the bill, the secretary may not lapse or transfer money to the general fund from any of the following: an appropriation that is funded from federal revenues; an appropriation for principal repayment and interest payments on public debt or operating notes; an appropriation to DOT for the purpose of undertaking construction projects; an appropriation for the operation of any state institution established for the care or custody of individuals; an appropriation funded from gifts, grants, or bequests; an appropriation containing moneys whose lapse or transfer would violate a condition imposed by the federal government on the expenditure of the moneys; or an appropriation containing moneys whose lapse or transfer would violate the federal or state constitution.

Finally, the bill provides that, if the secretary reduces a sum certain appropriation or an expenditure estimate, or lapses or transfers money to the general fund, from any appropriation that is made to provide money to more than one local governmental unit, with the result that less money is provided to the local

governmental units, the secretary shall ensure that each local governmental unit receives the same percentage reduction in money paid from that appropriation.

***** ANALYSIS FROM –4576/2 *****

This bill requires the board of commissioners of public lands (BCPL) to establish a program, to be known as the federal match star program, under which BCPL may loan moneys belonging to the common school fund, the normal school fund, the university fund, and the agricultural college fund to any municipality eligible to receive a BCPL state trust fund loan. Under the program, the moneys must be used to provide matching funds for any federal discretionary grant that requires the municipality to provide matching funds as a condition of receiving the grant. A federal discretionary grant is defined in the bill as a grant awarded directly to a municipality by the federal government following a competitive application process. The bill, however, provides that the total amount of outstanding loans may not exceed $50,000,000.

***** ANALYSIS FROM –4650/1 *****

Economic impact assessments

Under current law, the statutes provide that a fiscal estimate must be prepared for any bill making an appropriation and any bill increasing or decreasing existing appropriations or state or general local government fiscal liability or revenues. This bill requires that an estimate of the economic impact on a private person or a political subdivision of this state must also be prepared.

***** ANALYSIS FROM –4587/1 *****

Under current law, whenever an agency proposes an administrative rule that may have an effect on small businesses, the agency must consider methods of reducing the impact on small businesses, including the establishment of less stringent requirements for small businesses. The agency is also required under current law to allow small businesses to participate in the rule–making process and to notify the secretary of commerce and the small business ombudsman clearinghouse if the agency proposes a rule that will impact small businesses. In addition, if the agency determines that the proposed rule may have a significant economic impact on a substantial number of small businesses, the agency must include a regulatory flexibility analysis at the time the agency submits its final draft of the proposed rule to the legislature.

This bill requires DOA to prepare an economic impact assessment of any proposed rule prepared by an agency that may have an economic impact on a private person, such as a business or corporation, or on a political subdivision of the state, such as a city or county. The economic impact assessment shall evaluate the costs and benefits of complying with the proposed rule and the potential impact of the proposed rule on the decisions of the private person or political subdivision of the state. The bill requires the agency to submit the economic impact assessment to the legislative council staff with the proposed rule and to the legislature when the proposed rule is in final form, with a report explaining any changes that were made in the proposed rule as a result of the economic impact assessment.

***** ANALYSIS FROM –4572/1 *****

State security enhancement

Under current law, each county is required to appoint a local emergency planning committee that is responsible for facilitating preparation and implementation of an emergency response plan for responding to the release of a hazardous substance. The division of emergency management administers a grant program to provide local emergency planning committees with funds for maintaining, exercising, reviewing, and implementing emergency response plans related to the release of a hazardous substance, purchasing computers, purchasing equipment and supplies that may be used in responding to the release of a hazardous substance, and for administrative costs.

The bill creates a new grant program administered by the office of justice assistance to provide funds to local emergency planning committees for the purchase of materials and services related to investigating, preventing, and responding to acts of terrorism. The grant program is for fiscal years 2001–02 and 2002–03. The bill defines "acts of terrorism" as certain felonies that are committed with intent to influence the policy of a governmental unit, punish a governmental unit for a prior policy decision, affect the conduct of a governmental unit by homicide or kidnapping, or intimidate or coerce a civilian population. The materials and services that local emergency planning committees may use the grant funds to purchase include: communications equipment; safety or protective equipment for emergency response personnel; training related to the investigation or prevention of, or response to, acts of terrorism that pose a threat to the environment; and information systems, software, or computer equipment for investigating acts of terrorism that pose a threat to the environment.

Currently, DOA is directed to provide police services to safeguard public property for which DOA has management responsibility. DOA may also contract with other state agencies to provide police services at other state properties. This bill increases the police officer positions authorized for DOA by 5.0 FTE PR positions. The cost of the positions is paid from charges assessed against the appropriations that finance the operation of the properties that are protected by the officers.

***** ANALYSIS FROM –4655/3 *****

This bill provides that, if the governor designates an employee of the office of the governor to serve as domestic security coordinator, the employee shall, upon direction of the governor, advise and assist in carrying out the functions of the governor with respect to coordination of the state's security and public safety needs. The bill also permits the secretary of administration to transfer any vacant unclassified position in the executive branch of state government to the office of the governor for the purpose of filling the domestic security coordinator position. The bill does not transfer funding for the transferred position.

***** ANALYSIS FROM –4509/2 *****

Commission on local government

This bill creates a special committee that is called the commission on local government (commission). Under the bill, the commission consists of members appointed by the governor. DOA provides necessary administrative support services to the commission. The commission is directed to examine the organization,

authority, and efficiency of local governments, the services provided by each type of local government, and the services required of local governments by the state. The commission is also directed to review the relationship of local governments with the state, examine spending by local governments, and identify ways to increase efficiency in the delivery of local governmental services. The commission is directed to report its findings and recommendations to the governor and the legislature by February 1, 2003. Upon submittal of its report, the commission ceases to exist.

***** ANALYSIS FROM –4528/P1 *****

Housing assistance funding

Under current law, DOA provides grants and loans to persons and families of low and moderate incomes to defray housing costs. DOA also makes grants to community–based organizations and other housing organizations to pay operating costs and salaries and other personnel expenses so that the organizations are better able to provide housing opportunities and other housing–related services to persons or families of low or moderate incomes. This bill changes the source of funding for these grants and loans from GPR to moneys from WHEDA's authority surplus fund.

***** ANALYSIS FROM –4508/1 *****

Wisconsin Patient Safety Institute

Currently, DOA makes annual grants to the Wisconsin Patient Safety Institute, Inc., for collection, analysis, and dissemination of information about patient safety and training of health care providers and their employees directed toward improving patient safety. This bill deletes these grants.

***** ANALYSIS FROM –4575/3 *****

TAXATION

INCOME TAXATION

This bill adopts, for income tax and franchise tax purposes, the changes to the federal Internal Revenue Code made by Public Laws 106–200; 106–230; 106–519; 106–554; 106–573; 107–15; 107–16, excluding the section related to a deduction for higher education expenses; and 107–22.

***** ANALYSIS FROM –4691/3 *****

TRANSPORTATION

OTHER TRANSPORTATION

This bill creates an appropriation transferring $4,333,600 in fiscal year 2001–02 and $6,190,900 in fiscal year 2002–03 from the transportation fund to the general fund. The bill also requires DOT to submit a report each fiscal year to DOA for the lapsing of these amounts from SEG appropriations to DOT for state operations from the transportation fund.

***** ANALYSIS FROM –4533/4 *****

VETERANS AND MILITARY AFFAIRS

MILITARY AFFAIRS

Under current law, DMA administers the Youth Challenge program, which is a residential program that enables disadvantaged youth to obtain a high school equivalency diploma. This bill eliminates the Youth Challenge program and the funding for the program effective July 1, 2002.

***** ANALYSIS FROM –4678/2 *****

The bill appropriates moneys from the utility public benefits fund for paying a portion of the energy costs of DMA in fiscal year 2002–03. The bill also prohibits DMA from spending a portion of its general purpose revenue funding for energy costs in fiscal year 2002–03 without the approval of the secretary of administration.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

(END)